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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,652	11/10/2003	Peter Callas	80121-08601	6132

7590 11/02/2005

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EXAMINER

MENDOZA, MICHAEL G

ART UNIT PAPER NUMBER

3731

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/705,652

Applicant(s)

CALLAS ET AL.

Examiner

Michael G. Mendoza

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4-6, 12-15 and 23-36 is/are allowed.
- 6) ☒ Claim(s) 1-3, 7, 9, 11 and 19-22 is/are rejected.
- 7) ☒ Claim(s) 8, 10 and 16-18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see pages 11-12, filed 11 August 2005, with respect to the rejection(s) of claim(s) 1-3, 7, 9, and 11 under 35 USC 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Mollenauer et al. 5634937 or Williamson, IV 5545179.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 19, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Mollenauer et al. 5634937.

4. Mollenauer et al. teaches a fluid sealing apparatus for operation with an endoscopic instrument at a surgical site, the apparatus comprising: a body having a central bore, the bore extending through the body between distal and proximal ends thereof, an element disposed about the body near one of the distal and proximal ends thereof for selectively expanding radially outwardly about the body; and a fluid seal disposed about the body near the other of the distal and proximal ends having an aperture therethrough substantially aligned with the central bore through the body, and having an inner dimension resiliently and flexibly disposed to receive an endoscopic

Art Unit: 3731

instrument therein in sliding fluid-sealing engagement therewith, wherein the diameter of the central bore is large enough to permit a range of angulation of an endoscopic instrument extending through the central bore; wherein the resilient fluid seal is disposed at the proximal end of the body and defines a transition section flared outward in a proximal direction; wherein the central bore is at least 0.6 inches in diameter.

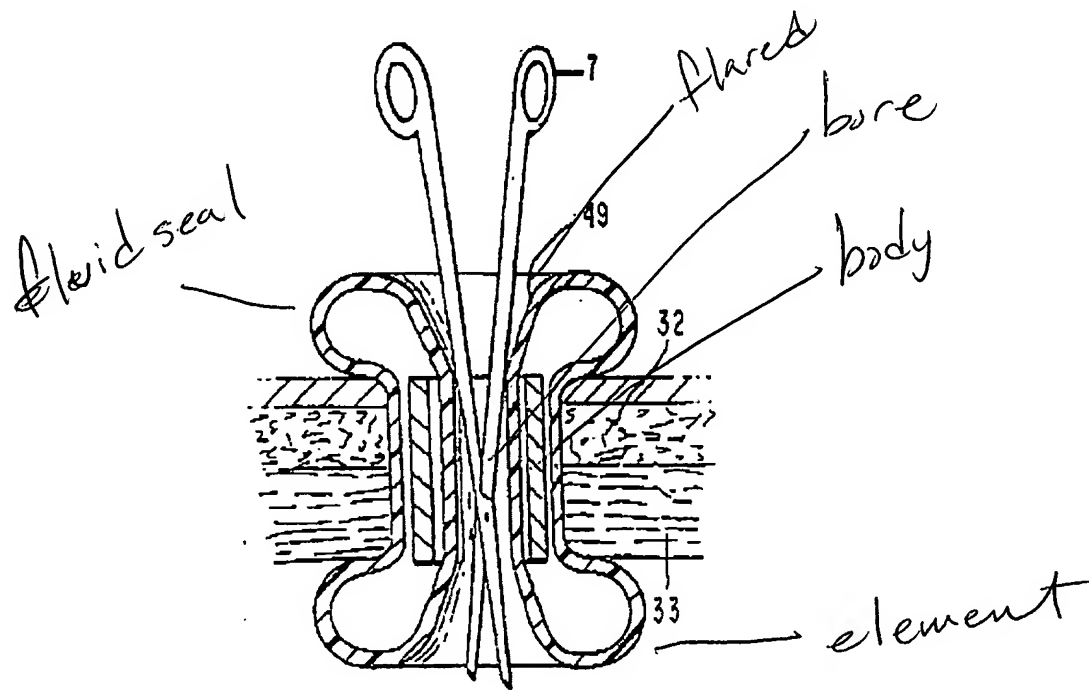
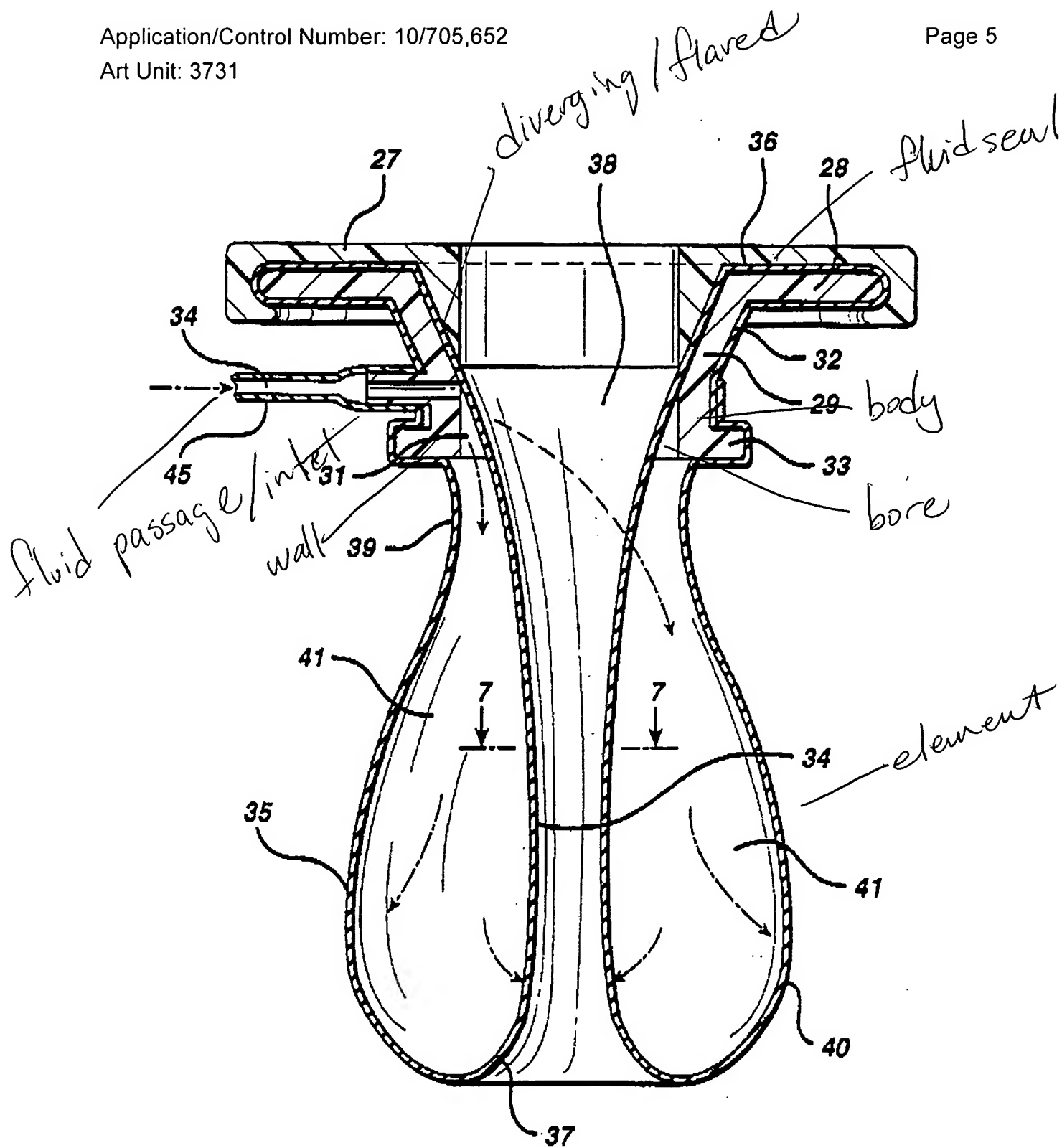


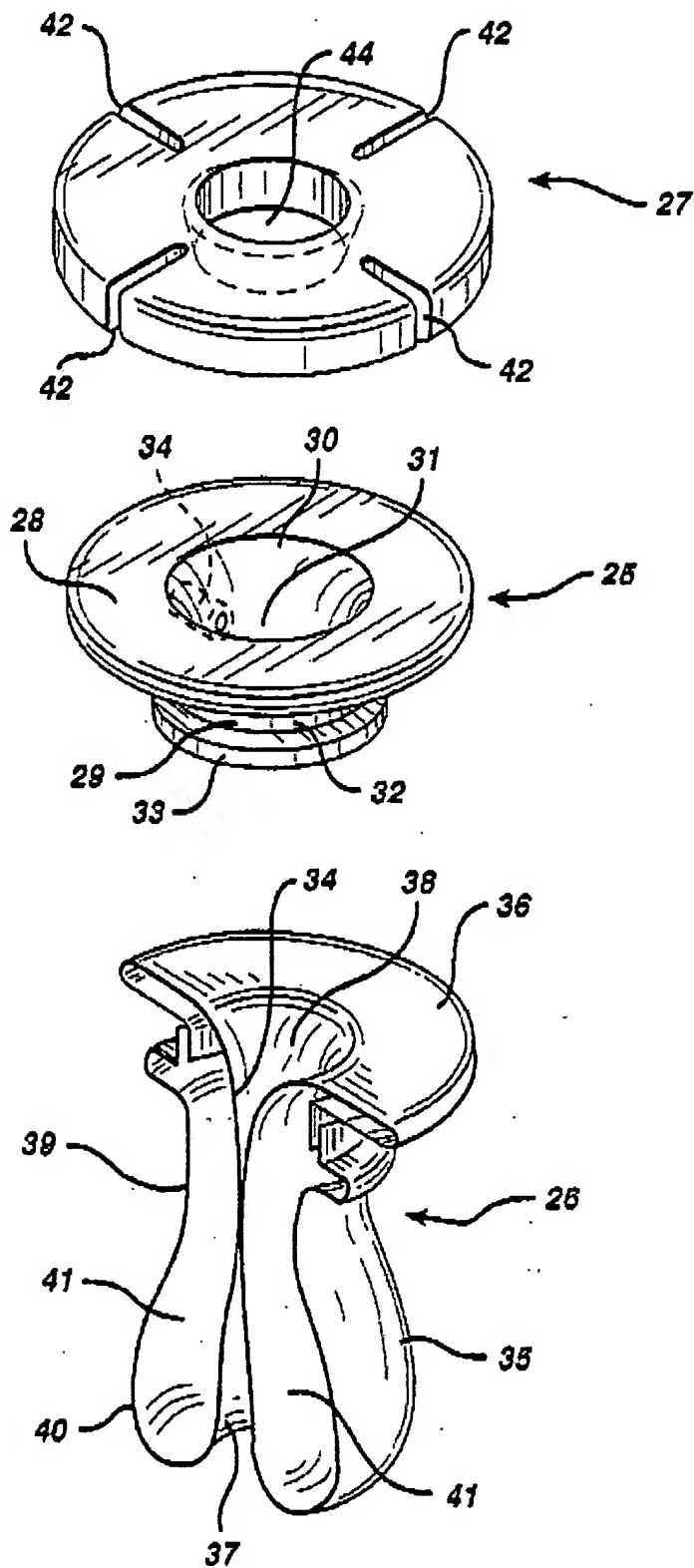
Fig. 17a.

5. Claims 1-3, 7, 9, 11, and 19-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Williamson, IV 5545179.
6. Williamson, IV teaches a fluid sealing apparatus for operation with an endoscopic instrument at a surgical site, the apparatus comprising: a body having a central bore, the bore extending through the body between distal and proximal ends thereof, an element disposed about the body near one of the distal and proximal ends thereof for

Art Unit: 3731

selectively expanding radially outwardly about the body; and a fluid seal disposed about the body near the other of the distal and proximal ends having an aperture therethrough substantially aligned with the central bore through the body, and having an inner dimension resiliently and flexibly disposed to receive an endoscopic instrument therein in sliding fluid-sealing engagement therewith, wherein the diameter of the central bore is large enough to permit a range of angulation of an endoscopic instrument extending through the central bore; wherein the element includes a balloon of substantially toroidal-shape attached to an outer surface of the body near the distal end thereof, and comprising: a fluid passage in a wall of the body in communication with the balloon and extending along the wall toward the proximal end of the body for connection thereat to a source of fluid under pressure for selectively inflating the balloon; in which the fluid seal includes a generally toroidally-shaped member removably attached in fluid-sealing engagement with the proximal end of the body; including an inlet conduit communicating with the bore for supplying fluid under pressure thereto; wherein the central bore includes a portion thereof of diverging sectional dimension toward the proximal end thereof; and the inlet conduit communicates with the portion of diverging sectional dimension; wherein the resilient fluid seal is disposed at the proximal end of the body and defines a transition section flared outward in a proximal direction; wherein the central bore is at least 0.6 inches in diameter; wherein the proximal end of the central bore defines a transition section flared outward in a proximal direction to increase the diameter of the central bore by at least about 50% from the distal end thereof.





Allowable Subject Matter

7. Claims 4-6, 12, 13, 14, 15, and 23-36 are allowable over the prior art of record.
8. Claims 8, 10, and 16-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael G. Mendoza whose telephone number is (571) 272-4698. The examiner can normally be reached on Mon.-Fri. 8:00 a.m. - 5:00 p.m..

Art Unit: 3731

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anh Tuan Nguyen can be reached on (571) 272-44963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MM



ANH TUAN T. NGUYEN
SUPERVISORY PATENT EXAMINER

10/31/05.